# NEVADA DEPARTMENT OF CONSERVATION & NATURAL RESOURCES

## STATE ENVIRONMENTAL COMMISSION

### **HEARING ARCHIVES FOR**

## **REGULATORY PETITIONS**

**COMMISSION PETITION NO. 93010** 

LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-053-93

**DOCUMENTS INCLUDED IN THIS FILE:** 

YES SECRETARY OF STATE FILING FORM

YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B

**REGULATORY PETITIONS** 

ORIGINAL DRAFTED BY COMMISSION

**ADOPTED BY COMMISSION** 

YES AS FILED AND CODIFIED BY LCB

Secretary of State Filing Data	For Filing Administrative Regulations	For Emergency Regulations Only
		Effective Date  Expiration Date
	Environmental	Governor's Signature
	Commission	
Classification [ ] Proposed [ ] Adopted By Agency [XX] Temporary [ ] Emergency [ ]		
<b>Brief description of action:</b> Petition 93010 (LCB R-053-93) permanently amends NAC 445.981 and 445.988 the Environmental Commission's rules of practice to reflect the statutory authority of the commission to conduct hearings and other technical corrections. The amendment adds similar new sections to NAC 278, 444, 444A, 459,		

486A, and 519A. In addition the regulation exempts the Commission in NAC 444 from conducting hearings in those areas of the statutes or administrative code where the Division of Environmental Protection has a been granted authority to conduct hearings.

**Authority citation other than 233B:** NRS 278.377, 444.560, 444.748, 444A.080, 445.461, 445.620, 445.056, 459.3818, 459.3872, 459.470, 486A.150, 519A.160.

#### **Notice date:**

Temporary - April 20, May 6, May 17 and May 19, 1993. Permanent - August 24, September 8 and September 16, 1993

# **Hearing date:**

Temporary - May 27, 1993 Permanent - September 22, 1993

## **Date of Adoption of Agency:**

Temporary - May 27, 1993 Permanent - September 22, 1993

## LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066 PETITION 93010 LCB R-053-93

The following statement is submitted for adopted permanent amendments to Nevada Administrative Code 445-981 and 445.988 and Chapters 278, 444, 444A, 459, 486A and 519A.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

Petition 93010 was noticed six (6) times: 4-20-93, 5-6-93, 5-17-93, 5-19-93, 8-24-93, 9-8-93 and 9-16-93 in the Las Vegas Review and Reno Gazette-Journal newspapers.

2. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1. No written comment was received prior to the hearing.

3. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The temporary regulations were adopted on May 27, 1993.

The permanent regulations were adopted at the SEC hearing on September 22, 1993 with no further public comment.

- 4. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:
  - (a) Both adverse and beneficial effects: and
  - (b) Both immediate and long-term effects.
  - a. There are no adverse or beneficial economic effects on the public or regulated sources.
  - b. There are no immediate or long-term economic effects on regulated sources. There are no immediate or long-term economic effects on the public.
- 5. The estimated cost to the agency for enforcement of the proposed regulation.

There is no additional cost to the agency for enforcement of the proposed regulation.

# Page 2 - SEC Information Statement - Petition 93010

6. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.

There are no other state or government agency regulations which the proposed amendments duplicate.

# CODIFIED PERMANENT REGULATION OF THE NEVADA STATE ENVIRONMENTAL COMMISSION LCB File No. R-053-93

EXPLANATION--Matter in italics is new; matter in brackets [] is material to be omitted.

AUTHORITY: NRS 233B.050.

**Section 1.** Chapter 278 of NAC is hereby amended by adding thereto a new section to read as follows:

- 1. Any person who requests a hearing before the state environmental commission concerning a final decision of the division of environmental protection of the state department of conservation and natural resources pursuant to NRS 278.377 may do so by filing a request, within 10 days after notice of the action of the department, on form 3\* with the State Environmental Commission, 333 West Nye Lane, Capitol Complex, Carson City, Nevada 89710.
- 2. The provisions of NAC 445.980 to 445.995, inclusive, apply to a hearing of the state environmental commission requested pursuant to subsection 1.

  \*(See adopting agency for form.)
- **Sec.2.** Chapter 444 of NAC is hereby amended by adding thereto a new section to read as follows:
- 1. Except as otherwise provided in subsection 2, any person who requests a hearing before the state environmental commission concerning a final decision of the state department of conservation and natural resources pursuant to chapter 444 of NRS may do so by filing a request, within 10 days after notice of the action of the department on form 3\* with the State Environmental Commission, 333 West Nye Lane, Capitol Complex, Carson City, Nevada 89710.

This SEC temporary petition 93010 was previously adopted on 5-27-93 and became effective on 6-8-93 on filing with the Secretary of State. This petition was adopted by the Environmental Commission as a permanent regulation on 9-22-93 and became effective on 10-29-93 on filing with the Secretary of State. The language in this permanent regulation was prepared by the Legislative Counsel Bureau as R-053-93. **Codified June 1, 1994.** 

- 2. A decision of the department issued pursuant to NAC 444.8701 to 444.8746, inclusive, is a final decision for the purposes of judicial review.
- 3. The provisions of NAC 445.980 to 445.995, inclusive, apply to a hearing of the state environmental commission requested pursuant to subsection 1.

\*(See adopting agency for form.)

- **Sec. 3.** Chapter 444A of NAC is hereby amended by adding thereto a new section to read as follows:
- 1. Any person who requests a hearing before the state environmental commission concerning a final decision of the state department of conservation and natural resources pursuant to chapter 444A of NRS may do so by filing a request, within 10 days after notice of the action of the department, on form 3\* with the State Environmental Commission, 333 West Nye Lane, Capitol Complex, Carson City, Nevada 89710.
- 2. The provisions of NAC 445.980 to 445.995, inclusive, apply to a hearing of the state environmental commission requested pursuant to subsection 1.

\*(See adopting agency for form.)

**Sec. 4.** NAC 445.981 is hereby amended to read as follows:

445.981 "Appellant" means any person:

- 1. Who requests a hearing before the commission, pursuant to *chapter 278*, 444 [or 445] *444A*, *445*, *459*, *486A or 519A* of NRS or the commission's regulations concerning the control of air or water pollution or the management of solid waste; or
  - 2. Whose appearance before the commission is required by:
  - (a) The director;
  - (b) An authorized representative of the director; or
- (c) A person who is designated by or pursuant to a county or city ordinance or a regional agreement or regulation to enforce local ordinances or regulations for the control of air pollution.

This SEC temporary petition 93010 was previously adopted on 5-27-93 and became effective on 6-8-93 on filing with the Secretary of State. This petition was adopted by the Environmental Commission as a permanent regulation on 9-22-93 and became effective on 10-29-93 on filing with the Secretary of State. The language in this permanent regulation was prepared by the Legislative Counsel Bureau as R-053-93. Codified June 1, 1994.

**Sec. 5.** NAC 445.988 is hereby amended to read as follows:

Any person requesting a hearing before the commission *concerning a final decision of the department* pursuant to chapter [444 or] 445 of NRS may do so by filing [his] *a* request, within 10 days [of] *after* notice of the action of the department, on form 3\* with the State Environmental Commission, [201 South Fall Street,] *333 West Nye Lane*, Capitol Complex, Carson City, Nevada 89710.

\*(See adopting agency for form.)

- **Sec. 6.** Chapter 459 of NAC is hereby amended by adding thereto a new section to read as follows:
- 1. Any person who requests a hearing before the state environmental commission concerning a final decision of the state department of conservation and natural resources pursuant to chapter 459 of NRS may do so by filing a request, within 10 days after notice of the action of the department, on form 3\* with the State Environmental Commission, 333 West Nye Lane, Capitol Complex, Carson City, Nevada 89710.
- 2. The provisions of NAC 445.980 to 445.995, inclusive, apply to a hearing of the state environmental commission requested pursuant to subsection 1.

\*(See adopting agency for form.)

- **Sec. 7.** NAC 486A is hereby amended by adding thereto a new chapter to consist of the following section to read as follows:
- 1. Any person who requests a hearing before the state environmental commission concerning a final decision of the state department of conservation and natural resources pursuant to chapter 486A of NRS may do so by filing a request, within 10 days after notice of the action of the department, on form 3\* with the State Environmental Commission, 333 West Nye Lane, Capitol Complex, Carson City, Nevada 89710.
- 2. The provisions of NAC 445.980 to 445.995, inclusive, apply to a hearing of the state environmental commission requested pursuant to subsection 1.

\*(See adopting agency for form.)

**Sec. 8.** NAC 519A.415 is hereby amended to read as follows:

This SEC temporary petition 93010 was previously adopted on 5-27-93 and became effective on 6-8-93 on filing with the Secretary of State. This petition was adopted by the Environmental Commission as a permanent regulation on 9-22-93 and became effective on 10-29-93 on filing with the Secretary of State. The language in this permanent regulation was prepared by the Legislative Counsel Bureau as R-053-93. Codified June 1, 1994.

- 1. Any person aggrieved by:
- (a) The issuance, denial, renewal, suspension, modification, condition or revocation of a permit; or
- (b) The issuance, modification or rescission of any other order, by the **[division]** *state department of conservation and natural resources* may appeal to the commission.
- 2. Any person who requests a hearing before the commission concerning a final decision of the department pursuant to chapter 519A of NRS may do so by filing a request, within 10 days after notice of the action of the department, on form 3\* with the State Environmental Commission, 333 West Nye Lane, Capitol Complex, Carson City, Nevada 89710.
- 3. The provisions of NAC 445.980 to 445.995, inclusive, apply to a hearing of the state environmental commission requested pursuant to subsection 1.
- 4. The commission will affirm, modify or reverse any action of the **[division]** *department* which is appealed to it.

\*(See adopting agency for form.)

END OF PETITION 93010 (LCB R-053-93)